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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,143	12/21/2001	John S. Bobo	108774	5486
45473	7590	02/03/2006	EXAMINER	
HUTCHISON & MASON PLLC PO BOX 31686 RALEIGH, NC 27612			VANIK, DAVID L	
			ART UNIT	PAPER NUMBER
			1615	
DATE MAILED: 02/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/024,143

Applicant(s)

BOBO ET AL.

Examiner

David L. Vanik

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/26/2002
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## ETAILED ACTION

Receipt is acknowledged of applicant's Response to Election/Restriction filed on 11/10/2005.

### *Election/Restrictions*

Applicant's election with traverse of Claims 1-7, 23 in the reply filed on 11/10/2005 is acknowledged. The traversal is on the ground(s) that a search for the compound of Group I will necessarily overlap with a search for Groups II-IV. This is not found persuasive because Groups I-IV differ in scope and have different modes of operation, effects, and functions. Specifically, as pointed out in the 9/12/2005 Election/Restriction requirement, Group I is drawn to a compound comprising **amino acid residues**, Group II is drawn to a compound comprising **a therapeutic payload**, Group III is drawn to a compound comprising an **imaging agent**, and Group IV is directed to a composition comprising a **targeting moiety**. As such, claims 8-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species and invention, there being no allowable generic or linking claim. Claims 1, 4-7 will be examined in the instant application. It should be noted that a compound wherein "X" is NR, "R" is H, and R'X is an amino acid residue was not found in the prior art. As a result, the election of species requirement was expanded to include a compound wherein "X" is O and "R'-X" is a branched polyfunctional group.

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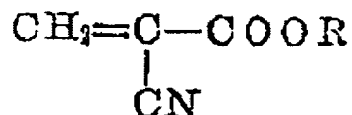
Applicant timely traversed the restriction (election) requirement in the reply filed on 11/10/2005. The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 2,784,127 ('127).

'127 disclose a compound with the following chemical structure:



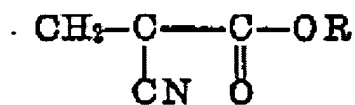
Like the instant application, "R" can be a polyfunctional group, such as a cyclohexyl group, phenyl group, or a wide-range of other substituents (Claim 1 and column 14, lines 15-29).

The instant claim 1 is therefore anticipated by US 2,784,127 ('127).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 3,527,841 ('841).

'841 disclose an adhesive compound comprising the following formula:

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According to '841, the "R" group a polyfunctional group, such as an alkoxyalkyl group, a haloalkyl group, or a cyclohexyl group (column 2, lines 40-60).

The instant claim 1 is therefore anticipated by US 3,527,841 ('841).

Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 5,041,602 ('602) is cited as patents of interest in its disclosure of a amino acid-based compound. Like the instant application, the '602 compound comprises an amino acid-based composition comprising cyano and carbonyl groups (See structure "1b" at column 2, lines 53-60). Unlike the instant claimed composition, however, both "K" groups are not hydrogen. Although one "K" group in '602 can be hydrogen, the second "K" group is a long-chain optically active group.

Additionally, Chabaka et al. (Amino Acid Derivatives in Organic Synthesis is cited as patents of interest in its disclosure of a amino acid-based compound. Specifically, compounds "3a" and "3b" on page 106 disclose an amino acid-based compound. However, although one "K" group is hydrogen, the second "K" group is a Phenyl group.

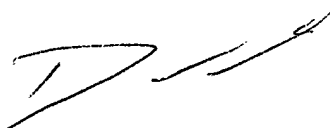
***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Vanik whose telephone number is (571) 272-3104. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:00 PM.

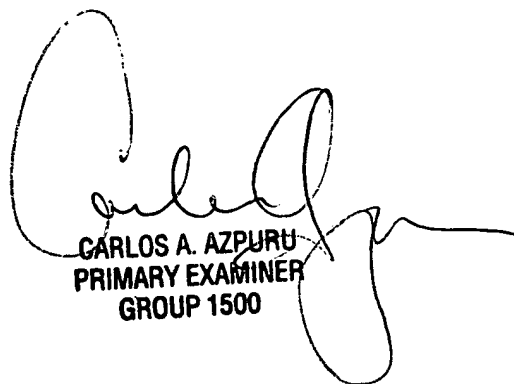
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Vanik, Ph.D.  
Art Unit 1615



1/31/06



CARLOS A. AZPURU  
PRIMARY EXAMINER  
GROUP 1500